



General Assembly

Amendment

January Session, 2015

LCO No. 7100



Offered by:

REP. DARGAN, 115th Dist.

REP. WILLIS, 64th Dist.

REP. TONG, 147th Dist.

To: Subst. House Bill No. **6498**

File No. 359

Cal. No. 216

***"AN ACT CONCERNING THE TIMELY TRANSFER AND
PROCESSING OF SEXUAL ASSAULT EVIDENCE COLLECTION
KITS."***

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Subsection (d) of section 19a-112a of the general statutes
4 is repealed and the following is substituted in lieu thereof (*Effective*
5 *October 1, 2015*):

6 (d) Each health care facility in the state which provides for the
7 collection of sexual assault evidence shall follow the protocol as
8 described in subsection (b) of this section and, with the consent of the
9 victim, shall collect sexual assault evidence. [The] After the collection
10 of any evidence, the health care facility shall contact a police
11 department [which] to receive the evidence. Not later than ten days
12 after the collection of the evidence, the police department shall transfer

13 the evidence, [collected pursuant to subsection (b) of this section,] in a
14 manner that maintains the integrity of the evidence, to the Division of
15 Scientific Services within the Department of Emergency Services and
16 Public Protection or the Federal Bureau of Investigation laboratory.
17 [The agency that receives such evidence] If the evidence is transferred
18 to the division, the division shall analyze the evidence not later than
19 sixty days after the collection of the evidence or, if the victim chose to
20 remain anonymous and not report the sexual assault to the police
21 department at the time of collection, shall hold [that] the evidence for
22 [sixty days] at least five years after [such collection, except that, if] the
23 collection of the evidence. If a victim reports the sexual assault to the
24 police [, the evidence shall be analyzed upon request of the police
25 department that transferred the evidence to such agency and held by
26 the agency or police] department after the collection of the evidence,
27 such police department shall notify the division that a report has been
28 filed not later than five days after filing such report and the division
29 shall analyze the evidence not later than sixty days after receiving such
30 notification. The division shall hold any evidence received and
31 analyzed pursuant to this subsection until the conclusion of any
32 criminal proceedings The failure of a police department to transfer the
33 evidence not later than ten days after the collection of the evidence, or
34 the division to analyze the evidence not later than sixty days after the
35 collection of the evidence or after receiving a notification from a police
36 department, shall not affect the admissibility of the evidence in any
37 suit, action or proceeding if the evidence is otherwise admissible.

38 Sec. 2. Section 54-86f of the general statutes is repealed and the
39 following is substituted in lieu thereof (*Effective October 1, 2015*):

40 (a) In any prosecution for sexual assault under sections 53a-70, 53a-
41 70a and 53a-71 to 53a-73a, inclusive, no evidence of the sexual conduct
42 of the victim may be admissible unless such evidence is (1) offered by
43 the defendant on the issue of whether the defendant was, with respect
44 to the victim, the source of semen, disease, pregnancy or injury, or (2)
45 offered by the defendant on the issue of credibility of the victim,

46 provided the victim has testified on direct examination as to his or her
47 sexual conduct, or (3) any evidence of sexual conduct with the
48 defendant offered by the defendant on the issue of consent by the
49 victim, when consent is raised as a defense by the defendant, or (4)
50 otherwise so relevant and material to a critical issue in the case that
51 excluding it would violate the defendant's constitutional rights. Such
52 evidence shall be admissible only after [a] an in camera hearing on a
53 motion to offer such evidence containing an offer of proof. [On motion
54 of either party the court may order such hearing held in camera,
55 subject to the provisions of section 51-164x.] If the proceeding is a trial
56 with a jury, such hearing shall be held in the absence of the jury. If,
57 after a hearing, the court finds that the evidence meets the
58 requirements of this section and that the probative value of the
59 evidence outweighs its prejudicial effect on the victim, the court may
60 grant the motion. The testimony of the defendant during a hearing on
61 a motion to offer evidence under this section may not be used against
62 the defendant during the trial if such motion is denied, except that
63 such testimony may be admissible to impeach the credibility of the
64 defendant if the defendant elects to testify as part of the defense.

65 (b) Any motion and supporting document filed pursuant to this
66 section shall be filed under seal and may be unsealed only if the court
67 rules the evidence is admissible and the case proceeds to trial. If the
68 court determines that only part of the evidence contained in the
69 motion is admissible, only that portion of the motion and any
70 supporting document pertaining to the admissible portion may be
71 unsealed. The court shall maintain any document remaining under
72 seal for delivery to the Appellate Court in the event of an appeal.

73 (c) The court shall seal each court transcript, recording and record of
74 a proceeding of a hearing held pursuant to this section. The court may
75 unseal a transcript, recording or record only if the court rules the
76 evidence in such transcript, recording or record is admissible and the
77 case proceeds to trial. If the court determines that only part of such
78 evidence is admissible, only the portion of such transcript, record or

79 recording pertaining to the admissible evidence may be unsealed.

80 (d) Evidence described in subsection (a) of this section shall be
81 subject to such other terms and conditions as the court may provide.
82 No defendant, defense counsel or agent of the defendant or defense
83 counsel shall further disclose such evidence disclosed by the state,
84 except to persons employed by defense counsel in connection with the
85 investigation or defense of the case or any successor counsel, without
86 the prior approval of the prosecuting authority or the court."

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2015	19a-112a(d)
Sec. 2	October 1, 2015	54-86f